

Exhibit 1

United States of America ex rel. Ven-a-Care of the Florida Keys, Inc v. Abbott Laboratories, Inc.; Dey, Inc., et al.; Boehringer Ingelheim Corp., et al.;
Civil Action No. 01-12257-PBS

Exhibit to the September 22, 2009, Declaration of George B. Henderson, II
In Support of Plaintiff's Response to Defendants' Combined Local Rule 56.1
Statement of Additional Material Facts Pertinent to the United States' Motions
for Partial Summary Judgment Against Defendants

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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

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In re: PHARMACEUTICAL INDUSTRY) MDL No. 1456
AVERAGE WHOLESALE PRICE) Master File No.
LITIGATION) 01-CV-12257-PBS

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THIS DOCUMENT RELATES TO:) Judge Patti B.
United States of America ex) Saris
rel. Ven-A-Care of the Florida)
Keys, Inc., et al. v. Dey,)
Inc., et al., Civil Action No.)
05-11084-PBS)

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Video Deposition of C. BENNY RIDOUT,
taken by the Defendants, at the Hilton North
Raleigh, 3415 Wake Forest Road, Boardroom, Raleigh,
North Carolina, on the 5th day of December, 2008 at
9:10 a.m., before Marisa Munoz-Vourakis, Registered
Merit Reporter, Certified Realtime Reporter and
Notary Public.

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1 one that wasn't, I mean, I got some in mind, but
2 I'm not sure, because we are talking about a
3 while ago.

4 But any time you could have a problem,
5 a manufacture can have a manufacturing problem,
6 you have to pull that product off the market.
7 FDA may suspend it, and when that happened, it
8 depends on how long it would take to get it back
9 on the market, and if there wasn't competition,
10 you know, the prices would be different.

11 Q. And in your experience, would the AWP
12 remain the same and then the far right column,
13 the actual selling price would go up and down?

14 MS. YAVELBERG: Objection, form.

15 A. I'm going to have to say that I did not
16 keep up with AWP's on a drug. I did say -- like I
17 said, you just don't have time to do that.

18 It is my understanding that the AWP
19 would change based on the competition and the
20 people in the marketplace. But as for me to say,
21 you know, now that's gone, I'm going to track
22 everybody's AWP, I didn't have time to do that.

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1 And I was hiring a company out of
2 California to keep up with those prices for me as
3 well as all the other Medicaid programs, to put
4 in my system, which the federal government
5 approved, that's the pricing system that we will
6 endorse, and we approved this. So, therefore, it
7 was --

8 Q. Was that First Data Bank that you used?

9 A. Yeah, and we thought First Data Bank
10 was doing a survey with the wholesalers across
11 the country, and that they would put that survey,
12 average price, average wholesale price came up,
13 that they were doing a survey of some of the
14 different drug manufacturers, what they sold that
15 drug for, and then they came up with an average
16 for it, and they called it an average wholesale
17 price. That was the interpretation we had for
18 quite some while.

19 Q. When did you have that interpretation?

20 A. When I was a pharmacist. Also when I
21 went to work for the state. Never knew that was
22 a spread. I thought that the AWP prices were

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1 what was going on? But that was something that
2 they would never volunteer to tell me what they
3 were paying. They would say to me, some of the
4 independents would say we can't buy drugs for
5 what the chains can. And one independent is
6 large, depending on volume, can buy it at a
7 better price than I can.

8 So it wasn't just that one price fits
9 all, it was based on volume and size of the
10 provider, whether it was a chain, and if it was a
11 chain, was it a North Carolina chain, or was it a
12 national chain, like Walgreens and Eckerd's and
13 those, they were supposed to get better prices
14 than Kerr, the local chain.

15 So it's just all kinds of pricing modes
16 and mechanism in place. There was no one set
17 price, and that's one reason why when I tried to
18 adjust my AWP, how do you adjust the AWP to cover
19 everybody, not knowing what it is?

20 Q. The price list that you had received
21 from wholesalers, did those ever relate to
22 infusion or home IV drugs?

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1 A. Most of the time it did not. But most
2 of the time the manufacturers would come in and
3 want us to make sure we had that price in the
4 system, because they were working with that
5 specialty pharmacist to get that drug out.

6 You know, I can remember sometimes the
7 company itself would contract with a K-Mart or
8 specialty pharmacist to promote that drug and
9 they would make that drug available to that
10 specialty pharmacist and that specialty
11 pharmacist would get all the physicians and try
12 to recruit that business with the help of the
13 manufacturer.

14 Q. And when you are referring to that sort
15 of detailing with respect to a particular drug,
16 you are referring to a brand drug?

17 MS. YAVELBERG: Objection, form.

18 A. I would have to say most of the time
19 it's probably a brand. There could be some
20 generic, in fact, some of them went generic, some
21 of those specialty drugs I've seen that went
22 generic over a period of time. So originally it

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